



Filing Receipt

Filing Date - 2024-05-23 11:51:03 AM

Control Number - 54488

Item Number - 66

DOCKET NO. 54488

APPLICATION OF FOREST GLEN	§	PUBLIC UTILITY COMMISSION
UTILITY COMPANY TO AMEND ITS	§	
CERTIFICATE OF CONVENIENCE	§	OF TEXAS
AND NECESSITY IN MEDINA	§	
COUNTY, TEXAS	§	

SUPPLEMENTAL FINAL RECOMMENDATION

I. INTRODUCTION

On December 16, 2022, Forest Glen filed an application to amend its sewer certificate of convenience and necessity (CCN) No. 21070 in Medina County.

On December 18, 2023, the Staff (Staff) of the Public Utility Commission of Texas (Commission) filed their Second Request for Information (RFI) seeking certain information from Applicant with a deadline of January 8, 2023. On May 10, 2024, the administrative law judge (ALJ) filed Order No. 18, directing Commission Staff to file a final recommendation on the application by May 23, 2024. Therefore, this pleading is timely filed.

II. SUPPLEMENTAL FINAL RECOMMENDATION

Staff has reviewed the application and supplemental information filed by Forest Glen and as detailed by the attached memorandum of Jaspinder Singh, Engineering Specialist with the Commission's Infrastructure Division recommends approval of the application. Staff continues to support the March 4, 2024 memorandum of Fred Bednarski III of the Rate Regulation Division and the certificate and map attached to Staff's March 4, 2024 filing.

Staff's review indicates that Forest Glen meets the applicable technical, managerial, and financial requirements of Chapter 13 of the Texas Water Code and Title 16, Chapter 24 of the Texas Administrative Code and, therefore, is capable of providing continuous and adequate service. Additionally, Staff's review suggests that approval of the application is necessary for the service, accommodation, convenience, and safety of the public.

III. CONCLUSION

For the reasons detailed above, Staff respectfully requests that Forest Glen' s application be approved.

Date: May 23, 2024

Jointly filed with permission,

PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Marisa Wagley Lopez
Division Director

John York Harrison
Senior Managing Attorney

/s/ Cheri Hasz
by John Harrison (with permission)
Cheri Hasz
State Bar No. 24126575
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7343
(512) 936-7268 (facsimile)
Cheri.Hasz@puc.texas.gov

DOCKET NO. 54488

CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document will be provided to all parties of record via electronic mail on May 23, 2024, in accordance with the Second Order Suspending Rules, issued in Project No. 50664.

/s/ Cheri Hasz
by John Harrison (with permission)
Cheri Hasz

Public Utility Commission of Texas

Memorandum

TO: Cheri Hasz, Attorney
Legal Division

FROM: Jaspinder Singh, Engineering Specialist
Infrastructure Division

DATE: May 23, 2024

RE: Docket No. 54488 – *Application of Forest Glen Utility Company to Amend Its Certificate of Convenience and Necessity in Medina County*

1. Application

On December 16, 2022, Forest Glen Utility Company (Forest Glen) filed with the Public Utility Commission of Texas (Commission) an application to amend its sewer Certificate of Convenience and Necessity (CCN) No. 21070 in Medina County, Texas under Texas Water Code (TWC) §§ 13.242 through 13.250 and 16 Texas Administrative Code (TAC) §§ 24.225 through 24.237.

Based on the mapping review by Dave Babicki, Infrastructure Division:

Requested Area 1 – Medina Estates, Megan's Landing, and Microsoft Subdivisions:

- The requested area includes 0 customer connections and approximately 496.5 acres, comprised of uncertificated area.

Requested Area 2 – Potranco West Subdivision:

- The requested area includes 0 customer connections and approximately 41.3 acres, comprised of uncertificated area.

Requested Area 3 – Potranco Oaks 2 Subdivision:

- The requested area includes 0 customer connections and approximately 218.8 acres, comprised of uncertificated area.

Requested Area 4 – Stinson Property Subdivision:

- The requested area includes 0 customer connections and approximately 293.7 acres, comprised of uncertificated area.

The *total requested area* includes 0 customer connections and includes approximately 1,050.3 acres comprised of uncertificated area.

- The application proposes the addition of approximately 1,050.3 acres to CCN No. 21070.

On April 12, 2024, the administrative law judge requested a revised recommendation in Order No. 16 from Commission Staff (Staff) on the supplemental information provided by Forest Glen regarding need for service, and capital improvements.

2. Notice

On October 4, 2023, an affidavit was provided affirming that notices were submitted to customers, cities, districts, neighboring retail public utilities, the county judge, groundwater conservation districts, and that there are 8 landowners in the requested area. A map indicating the location of each landowner was also provided. On August 28, 2023, Forest Glen provided a publisher's affidavit attesting that notice was published.

The deadline to intervene was November 9, 2023; there were no motions to intervene, protests, or opt-out requests received.

3. Factors Considered

Under TWC §§ 13.241 and 13.246, and 16 TAC §§ 24.11(e) and 24.227, the Commission must consider certain factors when granting or amending a water or sewer CCN. Therefore, the following factors were considered.

3.1. Consideration of the adequacy of service currently provided to the requested area and system compliance (TWC § 13.246(c)(1); 16 TAC § 24.227(a) and (e)(1)).

There are no customers in the requested area.

3.2. Consideration of the need for additional service in the requested area (TWC § 13.246(c)(2); 16 TAC § 24.227(e)(2)).

There are currently zero existing customers in the requested areas. The requested areas will be developed and therefore, there is a need for service.

3.3. Consideration of the effect of granting an amendment on the recipient of the certificate or amendment, on the landowners in the area, and on any other retail public utility of the same kind already servicing the proximate area (TWC §§ 13.241(b) and 13.246(c)(3), 16 TAC § 24.227(e)(3)).

Forest Glen will be the certificated entity for the requested areas and will be required to provide continuous and adequate service to the requested areas.

The landowners in the areas will have a sewer provider available when they need to request sewer service.

There will be no effect on any retail public utility servicing the proximate areas. All retail public utilities in the proximate areas were provided notice of the CCN amendment requested in this application and did not request to intervene.

3.4. *Consideration of the managerial and technical ability of the applicant to provide adequate service (TWC § 13.246(c)(4); 16 TAC § 24.227(a) and (e)(4)).*

TCEQ rule, 30 TAC §30.331(b), Wastewater Operators and Operations Companies, requires the operators of a domestic wastewater treatment facility to have a valid license issued by the TCEQ executive director. Forest Glen will have qualified TCEQ licensed operators licensed in wastewater treatment to run the acquired systems.

Forest Glen will have licensed operators to run the system operations. A total of four operators with Class A, B, and C licenses will be responsible for the system.

Forest Glen has two Texas Commission on Environmental Quality (TCEQ) approved wastewater treatment plants (WWTP) registered as Potranco Ranch Subdivision WWTP (FGU-WRRF1), Wastewater Discharge Permit No. WQ0015030001, and FGU-WRRF2, Wastewater Discharge Permit No. WQ0016192001. Forest Glen has two violations listed in the TCEQ database. According to the TCEQ database, the violations have been resolved and are closed. The Commission's complaint records, which go back 5 years, show thirteen complaints against Forest Glen. The complaints have been reviewed and closed by the Commission's Consumer Protection Division

3.5. *The applicants' demonstration that regionalization or consolidation with another retail public utility is not economically feasible when construction of a physically separate water or sewer system is required to provide service to the requested area. (TWC § 13.241(d); 16 TAC § 24.227(b)).*

Forest Glen is not building a new wastewater plant to provide service to the requested areas. They will be extending service to an existing wastewater plant. Therefore, concerns of regionalization or consolidation do not apply.

3.6. *Consideration of the feasibility of obtaining service from an adjacent retail public utility (TWC § 13.246(c)(5); 16 TAC § 24.227(e)(5)).*

Forest Glen received a request for service for the requested area from a developer. Forest Glen is not building a new wastewater plant to provide service to the requested areas. Collection lines will be installed in the requested area to feed into Forest Glen's WWTPs to serve the area. Therefore, it is not feasible to obtain service from an adjacent retail public utility.

3.7. *An application for a certificate of public convenience and necessity or for an amendment to a certificate must contain: a capital improvements plan, including a budget and estimated timeline for construction of all facilities necessary to provide full service to the entire proposed service area (TWC § 13.244(d)(3)).*

Forest Glen submitted their capital improvement plan under item 6 on February 16, 2023 (Preliminary engineering report). Forest Glen is extending service from the existing WWTPs to provide service to the requested areas. Forest Glen provided a budget, an estimated timeline for construction, and a keyed map showing where facilities will be located. WWTP, FGU-WRRF1 is the existing treatment facility to serve the requested areas and according to Forest Glen, WRRF 1 have adequate capacity for all existing developments including Potranco West Subdivision. WRRF 1 expansion has been completed in summer 2023.

WWTP, FGU-WRRF2 (TPDES Permit No. WQ0016192001) was issued on September 29, 2023, the WWTP will provide serve to Requested Area 1 (Medina Estates, Megan's Landing, and Microsoft Subdivisions). Construction is expected to begin in Spring 2024 and Forest Glen is currently working on the bidding process for construction.

Forest Glen is planning to construct FGU-WRRF 3 and to obtain TCEQ permit in the future to serve Stinson Property Subdivision. At this time the service to Stinson Property Subdivision will be provided by FGU-WRRF1. According to preliminary engineering report, construction will likely begin in Fall 2027 with completion of the WWTP in Summer 2028. Estimated costs to construct and extend the sewer systems are expected to exceed \$100,000, therefore the need for firm capital commitment under 16 TAC § 24.11(e)(5) is required.

The Rate Regulation Division filed a memo addressing the need for firm capital commitment criterion on March 4, 2024.

3.8. *Consideration of the financial ability of the applicant to pay for facilities necessary to provide continuous and adequate service (TWC § 13.246(c)(6); 16 TAC §§ 24.227(a) and (e)(6), 24.11(e)).*

The Rate Regulation Division filed a memo addressing this criterion on March 4, 2024.

3.9 *Requirement of the applicant to provide a bond or other financial assurance in a form and amount specified by the Commission to ensure that continuous and adequate utility service is provided (TWC §§ 13.246(d); 16 TAC § 24.227(f)).*

The Rate Regulation Division filed a memo addressing this criterion on March 4, 2024.

3.10. *Consideration of the environmental integrity and the effect on the land to be included in the certificated area (TWC § 13.246(c)(7) and (9); and 16 TAC § 24.227(e)(7) and (9)).*

The environmental integrity of the land will be minimally affected as collection lines are installed to provide service to the requested area.

3.11. *Consideration of the probable improvement in service or lowering of cost to consumers (TWC § 13.246(c)(8); 16 TAC § 24.227(e)(8)).*

Future residents of the planned development will have sewer service.

4. Recommendation

Based on the mapping review by Dave Babicki, Infrastructure Division, and my technical and managerial review, I recommend that Forest Glen meets all of the statutory requirements of Texas Water Code Chapter 13 and the Commission's Chapter 24 rules and regulations, is capable of providing continuous and adequate service. I further recommend that approving this application to amend its sewer CCN No. 21070 is necessary for the service, accommodation, convenience and safety of the public.

Forest Glen consented to the attached map, tariff, and certificate on December 21, 2023.